

Engrossed Bills—Martin, chairman; Patton, Matlock, King, Pope.

Enrolled Bills—Cooper, chairman; Fowler, Traylor, Kleberg, Peacock.

Senator Traylor moved that 200 copies of the list of committees be printed.

Senator Shannon moved to amend by adding 200 copies of the Rules of the Senate.

Amendment accepted, and motion adopted as amended.

Senator Traylor offered the following resolution:

Resolved, That the Sergeant-at-Arms be authorized to purchase postage stamps and stationery necessary for the use of the Senate.

Adopted.

Senator Jones called up his resolution.

Senator Johnson of Collin offered the following amendment: "Amend by striking out 'fifty copies' and inserting 'five copies.'"

Senator Davis offered the following amendment: "Amend by striking out 'four cents per copy' and inserting 'provided they can be obtained at a cost not exceeding three cents per copy.'"

Senator Gooch moved that the resolution and amendments be referred to the Committee on Public Printing.

Adopted.

Senator Gibbs offered the following resolution:

Be it resolved, That the Sergeant-at-Arms furnish the Senate with two large maps of the State of Texas, one to be suspended on each side of the Senate chamber.

Lost.

On motion of Senator Davis, the Senate adjourned until to-morrow morning at 10 o'clock.

THIRD DAY.

SENATE CHAMBER,
AUSTIN, January 11, 1883. }

The Senate met pursuant to adjournment. Lieutenant-Governor Storey in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Shannon, the reading of the journal of yesterday was dispensed with.

Senator Terrell, chairman of the Senate committee to act with a like committee from the House to wait on the Governor and inform him of the organization of the two houses, also that they were ready to receive any communication from His Excellency, reported that duty performed.

Senator Harris offered the following resolution:

Resolved, That the Sergeant-at-Arms be required to provide for the Secretary of the Senate a raised platform in front of the President's stand, and to provide all necessary chairs and tables for the committee rooms, and tables for the clerks of the Senate.

Adopted.

Senator Johnson of Collin, offered the following resolution:

Resolved, That the Committee on Judicial Districts be required to ascertain and report as soon as practicable the number of days of actual session of the district courts in each county and judicial district of this State during the year of 1882, and a like report for the year 1881.

Message from His Excellency, the Governor.

Senator Chessley moved to refer the resolution of Senator Johnson of Collin to committee on Judicial Districts, and it was so referred.

A Committee from the House reported that that body had organized and was now ready for business.

Senator Evans, chairman of the Committee on Public Printing, submitted the following report:

COMMITTEE ROOM,
AUSTIN, January 10, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Printing, to whom was referred Senate resolution No. 11, and the amendments offered thereto, beg leave to report that they have had the same under advisement, and report the accompanying substitute for said resolution and amendments, and recommend that it do pass.

EVANS, Chairman.

SUBSTITUTE.

Resolved, That each member of the Senate be allowed to subscribe for not exceeding fifty copies of such daily papers published in this State as he may desire, to be paid out of the contingent fund, provided such papers can be obtained at a cost of not exceeding three cents per copy, and contain a complete copy of the legislative proceedings, or a full and intelligible synopsis of the same.

Senator Pfeuffer introduced the following bill: "An act entitled an act to suspend the sale of the public school, university and asylum lands, and all vacant and unappropriated lands of the State." Referred to Committee on Public Lands.

Senator Buchanan offered the following joint resolution: "Joint resolution amending section 3, article 7, of the Constitution of the State of Texas." Referred to Committee on Constitutional Amendments.

Senator Evans offered the following resolution: "A resolution to submit certain amendments to article 7 of the Constitution." Referred to Committee on Constitutional Amendments.

Senator Evans introduced the following bills: "An act to amend articles 908 of chapter 2, and 911 of chapter 3 of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

"An act to amend article 1052 of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

Senator Matlock offered the following joint resolutions: "Joint resolution proposing an amendment to section 4, article 7 of the Constitution of the State of Texas, providing for the sale of public free school lands, and the investment of the proceeds of the same." Referred to Committee on Constitutional Amendments.

"Joint resolution proposing an amendment to sections 8 and 9 of the Constitution of the State of Texas, and to provide for the levy of State and county taxes." Referred to Committee on Constitutional Amendments.

"Joint resolution proposing an amendment to section 5, article 7, of the Constitution of the State of Texas, providing for the levy and collection of public free school tax and poll tax for public free school purposes." Referred to Committee on Constitutional Amendments.

Senator Matlock introduced the following bills:

"An act, to be entitled an act to amend article 1107 of the Revised Statutes of Texas, and to add thereto articles 1107a, 1107b, 1107c and 1107d." Referred to Judiciary Committee No. 2.

"An act to be entitled an act to repeal section 4, chapter 12, of an act entitled 'an act defining who are officers of this State, and to prescribe their rights, powers, duties and privileges,' passed by the Seventeenth Legislature, and approved February 15, 1881." Referred to Judiciary Committee No. 1.

Senator Davis introduced the following bills:

"A bill entitled an act to provide for the payment of certain debts of the State out of that half of the proceeds of sales of public lands not belonging to the common school lands." Referred to Committee on Education.

"An act entitled an act to amend articles 669 and 670 of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

"An act to amend articles 245 and 247 of Revised Statutes." Referred to Judiciary Committee No. 1.

"An act entitled an act to amend article 714 of the Code of Criminal Procedure." Referred to Judiciary Committee No.

"An act to amend articles 730 and 731 of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

"An act to repeal the fourth section of an act entitled an act defining who are officers in this State, and prescribe their rights, powers, duties and privileges," approved February 15, 1881." Referred to Judiciary Committee No. 1.

"An act to provide for the issuance of writs of mandamus and injunction in certain cases, and to fix the venue of the same." Referred to Judiciary Committee No. 1.

"An act to repeal an act entitled 'an act to provide the requisites of indictments in certain cases,' approved March 26, 1881." Referred to Judiciary Committee No. 2.

"An act to repeal an act entitled 'an act granting to persons who have been permanently disabled by wounds received while in the service of this State, or of the Confederate States, a land certificate for 1280 acres of land.'" Referred to Committee on Public lands.

Senator Gibbs introduced a joint resolution amending sections 3, 4, 6, 8, article 7 of the Constitution. Referred to Committee on Constitutional Amendments.

Also a bill to be entitled "An act amending section 570 of revised civil statutes on private corporations." Referred to Judiciary Committee No. 1.

Also a bill to be entitled "An act making certain reservations for public road purposes and forbidding the inclosing of same." Referred to Committee on Roads, Bridges, etc.

Also a bill to be entitled "An act establishing a reformatory farm and house of correction." Referred to Committee on Penitentiaries.

Senator Kleberg introduced a resolution amending sections 3 and 8 of article 7 of the Constitution. Referred to Committee on Constitutional Amendments.

Senator Buchanan introduced a bill entitled "An act to amend title 9, chapter 3, of the Penal Code of the State of Texas, by adding thereto another article to be numbered article 317a." Referred to Judiciary Committee No. 2.

Senator King introduced a bill to be entitled "An act to repeal section 4 of article 730, Code of Criminal Procedure, title 8, chapter 7." Referred to Judiciary Committee No. 2.

Senator Houston introduced a Joint Resolution proposing amendment to section 3, article 7, of the Constitution. Referred to Committee on Constitutional Amendments.

Also a bill to be entitled "An act to amend article 3201, chapter 1, title 62 of the Revised Statutes." Referred to Judiciary Committee No. 1.

Also a joint resolution proposing to amend section 9, article 8 of the Constitution. Referred to Committee on Constitutional Amendments.

Senator Jones introduced a joint resolution making an appropriation for the settlement of the Robert Wilson claim. Referred to Committee on Finance.

Senator Kleberg introduced a bill entitled "An act amending article 186 of the Penal Code." Referred to Judiciary Committee No. 2.

Senator Goodrich introduced a bill, entitled "An act increasing the minimum price of the lands belonging to the State, or any of its funds, to two dollars per acre." Referred to Committee on Public Lands.

Senator Houston introduced a bill, by request, entitled "An act to provide for compensation to an attorney, when appointed by the court to defend any person charged with

crime or misdemeanor." Referred to Judiciary Committee No. 2.

Senator Traylor introduced a bill entitled "An act authorizing the Commissioner of General Land Office to employ additional clerks, and fixing their salaries." Referred to Committee on Public Lands and Land Office.

The following message from the Governor was taken up and read, during the reading of which the President pro tem. took the chair:

EXECUTIVE OFFICE, AUSTIN, TEXAS, }
January 10, 1883. }

To the Honorable Senate and House of Representatives in the Legislature assembled:

You, as the Representatives of the people of Texas, have come to the capital to enact laws for their government, at a most important period of the history of the State.

Your fellow citizens feel assured, that they, through your agency, shape the government to their own liking, according to the will of the majority, under the powers, limitations, and restrictions of the Constitution.

The blessings of good government have been secured by their previous efforts, and in its enjoyment they are now a satisfied people. An exuberant prosperity fills the country to overflowing at the present time. The glowing prospects for its future advancement in the elements of greatness, is equally encouraging. Its progress during the last ten years has been unprecedented in the annals of States, on this continent. It has, in that time, emerged from comparative obscurity to a favorable appreciation throughout our sister States, and throughout the nations of Europe. The foundations for much of that progress were laid before I was elected and became Governor of the State, four years ago. During my two administrations the policy pursued was plainly marked out. It was the practical reformation of all of the governmental operations in existence, with such additions only, as were in accord with the spirit of the age, and as were prompted by the existing condition of the country, and its pressing wants.

In the pursuit of that policy, there has been in the main a harmonious co-operation by the Legislature and the executive officers, sanctioned by the general approbation of the people. Its results in so short a time have been remarkable.

The ad valorem taxes have been reduced from fifty to thirty cents on the one hundred dollars worth of property, and the occupation taxes nearly in the same proportion. An overflowing treasury now gives promise of an ability for a further reduction. A signal improvement in the collection of taxes has been accomplished.

The debt of the State has been reduced, approximately in round numbers, from \$5,400,000, on the first of January, 1879, to \$4,000,000, on the first of January, 1883, a difference of about \$1,400,000. The interest thereof has been reduced proportionally greater, by calling in the 10 per cent bonds, and issuing 5 per cent bonds in place of them, in which there was an annual diminution of over \$55,000 interest. The interest on the public debt was annually \$368,000, on the first of January, 1879, and on the first of January, 1883, \$227,000, making a difference of about \$140,000 in the interest.

Of the \$4,000,000 of bonded debt less than \$1,500,000 of it is owned by individuals, and over \$2,500,000 of it is in the State treasury, owned by the special school funds, the university and other funds, the interest on which amount is annually paid to these funds for our own benefit.

Our public credit has been so enhanced that it has been difficult to buy our 6 per cent bonds at a premium of forty dollars to the one hundred dollars.

The taxable property has increased from \$280,000,000 in 1870 to \$410,000,000, as estimated in 1882.

The permanent fund of the public free schools has increased by the sale of its lands from \$1,629,000 to \$5,361,000, on first January, 1883, with a probable increase shortly of over a million of dollars more by the sales of the reserved lands.

The common free schools have been improved, the length of their terms have increased every year, and the amounts annually appropriated to them have been greater, being this scholastic year over one million of dollars, and the scholastic population has increased over ten per cent upon the number of each preceding year, and now numbers over 295,000.

Two normal schools have been established, one for white and the other for colored pupils, whose expenses at the schools are borne by the State, in which there are now about two hundred pupils, who are being taught and trained to become teachers in our public free schools.

Summer normal institutes have been established during the last two years, which have been numerously attended by the teachers of the State.

It is proper here to note our obligations for the liberal contributions of the Peabody fund to our white normal school, to the summer normal institutes, and to other free schools in cities and towns in Texas.

The Agricultural College, formerly a literary high school in effect, has been transformed into an agricultural and mechanical college in fact, and its rooms are all full of students.

The University of Texas, its main branch, its medical branch, and branch for colored youths, have been located by a vote of the people. One million of acres of land have been added to its fund, the building for the main university, at Austin, is now being erected, and it, with its branches, now awaits the intelligent recognition of the Legislature, in such liberal action as will meet the public demand for its adequate endowment and speedy organization.

The frontiersman no longer fears the tomahawk of the savage Indian, and the expenses of the police and frontier forces have been reduced to \$80,000 for this fiscal year, and their existence at all in a few years will be a thing of the past. The two penitentiaries have been brought to a completion, approximately, and a new lease of them has been made, looking to an immediate and gradual increase of convicts within their walls, until the room for them is full, with a provision that leaves the State at liberty to erect another one, and have it filled with convicts. The administration of the laws in the courts has been expedited, and their execution improved generally.

The quarantine operations have been systematized and greatly improved, for the protection of life against the yellow fever, and, at the same time, ample preparations are being made to facilitate commerce and intercourse with the tropical regions.

A grand capitol for the State has been contracted for, and is in the process of construction, to be paid for by three millions of acres of land, already surveyed, and set apart for that purpose.

One hundred leagues of land have been selected, surveyed, and set apart for the unorganized counties.

A temporary capitol has been erected, and a State sewer for the new buildings has been contracted for, and will soon be completed.

Permanent improvements have been made in all of the Asylums. Education and capital have flowed into the country far beyond any previous period. Enterprise, in all of the useful industries, has been quickened and enlarged.

Our roads have been pushed into the heretofore unsettled territory of the State, until we have now almost no frontier, as it was formerly known.

Two branches of a Pacific railroad have been completed, and now pass through the State, one through the northern and the other through the southern part of Texas, and a third one (the International), will soon have its connections, by other roads, through Mexico to the Pacific ocean.

Manufactories are starting up over the State, and commerce is enlarging its proportions to keep pace with the enlarged and varied industries of the country.

Other things have been done, which might be enumerated, that have contributed to swell the tide of our rapid advancement.

This result is due to the action of the Legislatures, the Executive, and judicial officers, and employees of the government generally, to moral influences exerted, to the intelligence and energy of our citizens, to the excellent qualities of Texas, in its fertile soils, its climate, its vast extent, and its locality, and not a little to the fact, that other States, north and east of us, having been settled and developed, the time had arrived when Texas did, in her turn, become the inviting field for enterprise. It is a sufficient source of pride, and honor that each one of us, as a Texan, in the full measure of his sphere of action, whether high or low, has been an actor in this grand drama of events, and condition of things, through which Texas has been made to leap into a conspicuous career of solid progress, unequalled in any former period of her eventful history.

The operations of the Government have grown to immense proportions, as exhibited by the numerous reports, and other documents that will be submitted to you, as follows:

- Report of the Comptroller.
- Report of the Treasurer.
- Report of the Attorney-General.
- Report of the Commissioner of General Land Office.
- Report of the Secretary of State.
- Report of the Adjutant-General.
- Report of the Commissioner of Insurance, Statistics and History.
- Report of the Fish Commissioner.
- Report of the Board of Education, including report of the Sam Houston Normal School.
- Report of the Penitentiary Board.
- Report of the Capitol Board on the temporary Capitol.
- Report of the Capitol Commissioners, including acts of Capitol Board.
- Report of the Printing Board.

Report of the Board for sale of judgments, explained in Attorney-General's report.

Report of the Board for State sewer.

Report of the Board of Managers and Superintendent of Lunatic Asylum.

Report of the Trustees and Superintendent of the Blind Asylum.

Report of the Trustees and Superintendent of the Deaf and Dumb Asylum.

Report on quarantine, by State Health Officer, Dr. Swearengen.

Report of President and Board of Regents of the University.

Report of the President of the A. and M. College.

Report of the Principal of the Normal School at Prairie View.

Report of the Board for the selection of 300 leagues of land for unorganized counties.

Message accounting for the expenditure of money.

Special message upon the claim of Texas to Greer county.

History and status of Mercer colony suit, by the attorneys, Messrs Peeler & Maxey.

Memorial of E. T. Moore, concerning suits for the State, and in escheats, referred to also in report of Attorney-General.

These reports, and other documents, will present for your consideration a mass of governmental operations which, in magnitude and variety, has never been before presented to any Legislature of this State, or probably of any other State.

I respectfully refer you to the facts and recommendations contained in them. I can call attention now to only a few of the subjects therein contained.

In the report which will be made and submitted to you at the close of my term of office, accounting for the money appropriated for rewards, attorneys' fees, and expenses of suits in which the State is a party, you will find a considerable amount of it contracted and paid as attorneys' fees and expenses. The largest fees have been paid for the defense in what is known as

THE MERCER COLONY SUIT.

to which Mr. A. J. Peeler, of the firm of Peeler & Maxey, is now giving his attention in the Supreme Court of the United States, at Washington City. This is a suit brought against the Commissioner of the General Land Office, in his official capacity, and affects the interests of the citizens in a very large portion of the northern part of Texas. The exhaustive exposition of the matters pertaining to this suit, prepared by Messrs. Peeler & Maxey, having been printed, will be submitted to you. This is, substantially, a suit against the State, and having been decided against the Hon. W. C. Walsh, he had to give a bond, in order to have it carried to the Supreme Court. Should it not be brought to a termination before the close of this session of the Legislature, it may be proper to make some provision for that, and for whatever else may be found necessary in the defense of this suit.

SUITS AGAINST DEFAULTING TAX COLLECTORS, AND IN CASES OF ESCHETS.

In the memorial of Mr. E. T. Moore, County Attorney of Travis county, and in the report of the Attorney-General, you will find both of these subjects explained, showing an urgent necessity for legislation, to cure the defects which have been found to exist in the laws relating to them.

QUARANTINE.

By the laws of this State, the Governor is placed at the head of the State quarantine, which is designed to be established on the gulf, and on the other borders of the State, when necessary, in order to keep the yellow fever and other infectious diseases out of the State. His duties on this subject, for about six months during each year, have been very onerous and difficult. The laws relating to it, as now found in the Revised Civil Statutes, is a compilation, repeating the provisions of four or five laws that had been previously passed at different times. They evidently have not a proper and consistent connection throughout, so as to prevent obscurity, and uncertainty in many respects.

Such a construction, however, has been placed upon them, taken all together, as has enabled a system of operations to be built up in their execution, which might be much improved by a thorough revision of the law in one complete and consistent enactment. There has been a constant struggle between trade in the operations of commerce and the preservation of the lives of the people. In all questions of doubt in this struggle, I have acted in favor of the latter object.

Texas occupies a position to have a large participation in the valuable trade with the tropical ports. It is a great loss to have to close our ports against it for five or six months in the year. Impressed with the importance of this, efforts have been made by me, persistently for the last three years, to have disinfecting houses established, as they have in New York and Louisiana, to facilitate this trade, so far as it can thereby be done consistently with the proper protection of life. Something has been done on this subject, which, together with the operations of the last year, will be fully

explained by the report of Dr. R. M. Swearingen, State Health Physician, which was made at my request. To his intelligence, firmness and influence exerted in that capacity, in aiding me in the discharge of my duties, I am much indebted. His report will also exhibit our obligations to the United States for the very material aid given us, as controlled and directed by Surgeon Murray, in harmony with the State authorities, in the great work performed in confining the yellow fever at Brownsville. I take pleasure, also, in acknowledging my obligations to the National Board of Health during each year of my administration, and especially to Dr. Beemis, of that board, at New Orleans, for valuable information and advice.

OFFICE OF COMMISSIONER OF INSURANCE, STATISTICS AND HISTORY

The present incumbent, in addition to other duties, has prepared a book containing a description of Texas, with a great deal of care and labor, that is now ready for circulation. Copies of it will be submitted for your inspection. Its circulation, as previously provided for by law, will, it is believed, give the most accurate and extensive information of all parts of Texas that has ever been embodied and furnished to the public.

He, having been placed in charge of the public property of the two houses of the Legislature, has undertaken to have it placed in the two halls prepared for the Legislature in the temporary Capitol, and to have supplied whatever additions are necessary for the Legislature to commence its session. There had been no appropriation made at the last session to defray the expense of this preparation for the two houses in advance of their meeting. All previous experience shows that such an appropriation should be made at or before the adjournment of every session of the Legislature, and, further, that it should be made the special duty of some particular officer to have it done.

He has also given his attention, in aid of the Governor, to the subject of

WEIGHTS AND MEASURES.

Such as were needed for standards, were applied for and obtained from the United States, by which numerous counties have been supplied upon application, as required by law on that subject. His report will exhibit what has been done.

THE CLAIM OF TEXAS AGAINST THE UNITED STATES FOR EXPENSES OF FRONTIER PROTECTION.

Efforts were made during both of my terms of office to have this claim adjusted and recognized. During the last session of Congress a bill was passed prescribing the manner in which the various items of the claim should be prepared, in order to be submitted to an auditing board at Washington City, whose report thereon, when made, is to be submitted to Congress for its action.

In the report of the Adjutant-General will be found an explanation of what preparation has been made and the reasons why nothing more has been done. I refer you particularly to the letter of the State Comptroller, contained in that report of the Adjutant-General, which exhibits fully the great difficulties, and the necessary amount of labor of experts, and attendant expense, in properly preparing that claim for auditing, according to the law of Congress. From this it will be seen that the appropriation of five hundred dollars, made heretofore, to employ some one to prepare said claim for auditing, was not sufficient to justify the entering upon a work of such magnitude and of such pecuniary importance to Texas.

You are respectfully referred to the report of the Capitol Board upon the

TEMPORARY CAPITOL.

which will show the difficulties that have been encountered in carrying out the law of the special session of 1882, appropriating fifty thousand dollars and the material upon the old Capitol grounds, and placing them under the direction of said Board to lease, purchase or erect suitable public buildings for the executive officers, the higher courts, and for the legislature.

The Board having finally decided to build a house, made a contract with Mr. James B. Smith, of Austin, as shown in the report. Just as the stone work of the building had been completed and the roof had been placed upon it, ready for the tin covering (all of which had been done rapidly, in a very short time, to get the house ready for the meeting of the present Legislature), a very severe wind and rain storm caused the northwest corner and parts of the north side and west end of the building to fall.

The portion of the fractured walls that stood exhibited what was regarded as defective work, in not bonding them sufficiently, and caused an apprehension of the safety of the building, if the walls were rebuilt as they had been.

There had been paid on the building to the contractor \$28,000, and a considerable portion of the materials on the Capitol grounds had been used, leaving to complete the building the balance of said materials, and \$17,300, which would not have been sufficient to repair the damage and complete the building, as it has been done, upon a contract with another person. The Board was, therefore,

anxious to have him continue the work in such a manner as would give to the members of the Legislature, and to others having business within it, full assurance of the safety of the building for the purposes intended. They made him a proposition for that object, without having any additional means to pay him for the additional work, thus made necessary by the falling of the walls, to which he acceded, resulting in the supplemental contract, referred to in the report. Pursuant to this contract, the fallen walls have been rebuilt in a substantial manner, the walls having been anchored through to each other, and bracing supports to the walls of the halls in the west end have been constructed, and the house has been thereby, as it is believed, rendered perfectly safe for use. This work, in addition to the rebuilding of the walls, has entailed upon the contractor a large expense, over and above what was contemplated in the original contract. It is but just to state, that in this and other changes, and additions found necessary as the work progressed, the contractor has exhibited a liberal spirit of self-sacrifice to have the house properly completed in readiness for the meeting of the Legislature at its present session.

If he had not done so, after the misfortune of the fall of the walls, which would not have occurred but for the storm, it would have been impracticable to have had the house completed for use now, if it could have been rebuilt at all, without a very considerable additional expense, and the great expense of renting houses and rooms would have been continued, necessarily.

While the Board could not, and did not, give him any promise of additional compensation for all of the additional work, necessary to give full assurance of the safety of the building, it is equally right that he should have it, on the same principle that, a session heretofore held, lately at least, persons who have voted to make necessary provision in advance for the holding of the Legislature have been compensated for the expense incurred. SIC

There is other work necessary to be done to and about for its preservation and utility, which the Board did no means to have done, and which could not have been done present time, such as drainage for the foundation, sewerage, ply of water in case of fire, pavements, enclosing the lot west building, and the planting of trees in it, so as to protect its western side from the view of the Governor's Mansion. The necessary work is fully set out in a letter of the Superintendent in report.

GOVERNOR'S MANSION.

In this connection it may be proper to state that the Mansion should have the addition of a good ornamental roof, that would turn the water that falls on it on the outside of the walls, and the walls, especially on the north side of it, should be heavily painted, so as to prevent the water from penetrating them; which necessary improvements could not be made to it with the appropriations heretofore made for its improvement.

The report of the

CAPITOL COMMISSIONERS.

detailing its action, with that of the Capitol Board, in regard to all that has been done about the permanent State Capitol, renders it unnecessary to do more than refer your honorable bodies to it. It will exhibit a full account of the expenditures made for it, including the twenty thousand dollars placed under the control of the Governor at the session of 1881.

If the contract for the construction of the building is faithfully carried out, of which the character and capacity of the contractor and of his sureties give ample assurance, Texas will have a magnificent Capitol, which will be the pride of all of its people.

STATE SEWER.

The law providing for the construction of a State sewer is found only in the act of appropriation of the special session of 1882, in the following words and figures, to-wit:

"To provide efficient sewerage for the Lunatic Asylum, State University, State Capitol, and Institute for the Blind, forty-five thousand dollars. (\$45,000)."

No board having been otherwise expressly created for the ordering of this work, and for the disposition of this fund, the Comptroller was consulted as to what authority would be recognized as the proper one for those objects, when it was determined that the heads of the boards having control of these institutions, would be so recognized.

Therefore, in view of its pressing necessity, for the Lunatic Asylum particularly, at present, the President of the Board of Managers of the Lunatic Asylum, the President of the Board of Regents of the University, the Governor, as President of the Capitol Board, and the President of the Board of Trustees of the Institute for the Blind, have acted as State Sewer Board. This Board has appointed an engineer, had routes selected from the institutions named to a joint main, and thence to the Colorado river, had a profile made of it, obtained the right-of-way from owners of property, where nec-

essary in the route, and have let out the contract for its construction; all of which is fully explained in the report of the State Sewer Board, to which you are respectfully referred. It is obviously an omission, in not having expressly named the members of a board to carry this law into effect, which this Legislature can readily supply, and insure the speedy completion of this important work for the State.

A BOARD FOR SUPPLYING WATER TO THE PUBLIC BUILDINGS AND GROUNDS.

The great necessity of supplying water and proper sewerage to the Lunatic Asylum caused the board of managers to submit the subject to the special session of the Legislature in 1882. They had previously had in contemplation the procurement of the water for that and other public buildings from the Colorado river, opposite Mount Barker, near Mount Bonnell. They had a survey and profile of the route made, with estimates thereon. At the same time two other plans of supply were presented, one to get water from Barton springs, by the purchase and use of the water-power of that stream and the other by what is known as the Holly system.

The Water Works corporation of this city having contracted with parties to have this Holly system introduced into the city of Austin, that plan of supply for the public buildings and grounds was adopted by an act of the Legislature, and an appropriation of seven thousand dollars per annum was made, and a board was created to carry it into effect.

This board is composed of the Governor, the Presidents of the Asylum Boards, the Capitol Commissioners, and President of the Board of Regents of the University. The work of the company is progressing, but it has not yet been put in operation, and therefore the board has never been called together for action under the law. I did not approve the law, for the reason that I did not believe that the State of Texas ought to be dependent upon a private corporation to supply water to its public buildings and grounds, merely because the immediate expense of procuring facilities for it might seem to be, or be promised to be, the cheaper. It was allowed to pass, in deference to the necessity of getting a water supply in some way or other. No contract having been made with the company, the Legislature may of course repeal the law, or so modify its provisions as that a temporary contract will not bind the State longer than a more appropriate mode of supply may be adopted.

The report of the board for surveying

THREE HUNDRED LEAGUES OF LAND FOR THE UNORGANIZED COUNTIES

will exhibit the proceedings necessary to the accomplishment of that object, with the amounts expended in this business. In connection with it will be found an interesting report of Mr. John Henry Brown, who was appointed and acted on behalf of the State in the selection of the lands.

RAILROADS.

The law authorizes the Governor to appoint some person to act as State Engineer, who shall have the right and power to compel all railroads that connect with each other in this State to make their connections regular and proper, so as to accommodate the traveling public on said roads, and the right and power to compel said companies to draw the passengers and freight of each other on their respective roads and cars; and upon a refusal to comply with these requirements, such person shall take charge of the road and rolling stock, and report it to the Governor. The said road shall then be run for the benefit of the State until satisfactory arrangements are made for a compliance with the Governor. Revised Statutes, page 611, Article 4255.

Although the attention of the Legislature has been previously called to this law, no appropriation has ever been made to pay the Engineer, nor to defray the necessary expenses of taking charge of and of running a railroad.

Any attempt to have enforced it would have been futile. Numerous cases may have happened that should have been remedied, but the means of obtaining authentic information of them even, were not at my command. Indeed, the great defect of our railroad laws generally, has been the want of adequate and practicable remedies to enforce what is legally required of them.

Combinations and pooling may be made, the road-beds may be out of order, the rolling stock may be defective or insufficient, preferences may be given to particular places and persons, and numerous other injuries may be done to individuals, and to the public, without there being any appropriate remedy. Suits for forfeiture, and for damages, and statutory threats to take possession of the roads, are either too remote, trivial, or impracticable to correct wrongs done by great moneyed corporations, in a way to prevent their continual recurrence. It will never be otherwise until the State undertakes the correction, by remedies acting directly on those who manage and control the roads and the business transacted on them.

INDEBTEDNESS OF CERTAIN RAILROAD COMPANIES TO THE PUBLIC FREE SCHOOL FUND.

There has been a controversy about the payment of the interest on this debt, which has been of long standing. I called the attention of the last Legislature to it in a special message, in which the whole subject was fully explained, with an opinion thereto annexed by the Attorney-General, Hon. George McCormick.

The immediate cause of this matter being then called to the attention of the Legislature, was, that the company now owning that part of the branch of the Houston and Texas Central Railway leading to Austin, known formerly as the Washington County Railroad, had failed to pay the interest upon the debt of said road, then due according to the construction placed upon the laws relating to that debt, by the Comptroller during Governor Davis' administration, which had been subsequently acquiesced in by that department, of which default I had been notified by the Comptroller.

In that message, I said that "I have deemed it proper to bring plainly and fully to the view of the Legislature all of the facts, records, and laws pertaining to this controversy, so far as I have been enabled to ascertain them; first, to show why I did not believe it for the interest of the State for me to undertake an advertisement and sale of the road; and secondly, for such legislative action as may be deemed proper to bring this long continued disagreement to a satisfactory conclusion, if possible.

An act for that object was introduced, which failed to be passed. There was no appropriation made to carry the law into effect, if the remedy provided by law had been attempted. For the advertisement and sale of the road would have resulted simply in its being bought in by the State, as no one would have paid any reasonable price for a piece of a road under the control of a powerful company. And for the same reason, the State could not have sold the road, without a sacrifice of its interests, as claimed by its officers. The attempt to take possession of the road, and use it for the benefit of the State, without ample means being provided in advance, would have been worse than useless.

This question of dispute is not confined to this little piece of a railroad, but relates to a number of railroads, and involves a large interest, which should be settled in regard to all of them, by such legislation as would properly protect the interests of the State, which right of legislation was expressly retained in the act of 1856, under which the loan was made.

(Copies of the said special message have been preserved in the Executive Office, and may be furnished to such members as desire them.)

RAILROAD CERTIFICATES.

Previous to the passage of the law repealing the laws granting certificates to railroad companies, at the special session of 1882, applications had been made to me for orders granting certificates to several companies, which were refused by me under that clause of the law relating to the inspection of a road, which required it to be reported "that the same had been constructed in accordance with its charter, or with the general laws, under which it may be constructed, or with laws in force regulating railroads." (R. C. Stat., 614.) The default generally was in the failure in point of time to build the road the distance required by the charter or by the law.

In the numerous investigations relating to applications for railroad certificates generally, I am largely indebted to the courtesy and aid of the present and former Attorneys-Generals of the State.

THE ASYLUMS.

These charitable institutions have been well managed in proportion to the means furnished for their support and gradual enlargement.

The greatest lack of adequate means and appliances has been in the Lunatic Asylum. At two sessions of the Legislature I have presented the information relating to the number of lunatics that have been taken care of in jails and other places, for the want of accommodations for them in the lunatic asylum, amounting to several hundreds each time. I made an earnest appeal to get ample appropriations to remedy this evil at once. Appropriations have been made, but they have been totally inadequate, as they have been used, and have been expected to be used, in the erection of large, fine and costly houses. It requires one or two years to build such houses, and the lunatics have increased faster than the room to accommodate them in such houses as could be provided under the appropriations that have been made. And so it will continue indefinitely without some change in the amounts of the appropriations or in the character of the buildings erected. Fortunately, in one respect, the burning of one of the buildings at the Lunatic Asylum has created a necessity that has taught a useful and practical lesson, which is, that a large wooden building, that cost only fourteen hundred dollars, was built in a few weeks, and is now furnishing comfortable quarters for a considerable number of lunatics. Fifty thousand dollars so spent could be made the means of accommodating every

lunatic in the State in six months or less time, and it would be a profitable and humane investment to the country if the houses should be torn down, if of no further use, after better structures could be erected.

THE JUDICIARY.

There has been a marked improvement in the execution of the laws in both civil and criminal cases. The creation of the Commission of Appeals to aid the Supreme Court, and the Court of Appeals in civil cases, has been of much service in enabling those courts to dispatch their business, and thereby prevent the unreasonable delays in litigated cases which had so long been a just cause of complaint.

The gentlemen appointed to fill positions in that court have labored arduously, with an ability that has entitled them to respect and full confidence.

In the district courts there has been a gradual improvement in the administration of the laws of the State, by men of experience and ability consenting to hold the office of district judge. In those districts wherein district attorneys have been appointed or elected, the criminal laws have been generally much more efficiently enforced. In the more populous counties the county attorneys have generally done well in prosecuting criminals. Our jury law, as perfected and carried into effect, has been of great service in producing this result. The great defects in the execution of our criminal laws are, first, the want of experience and ability in the attorneys representing the State to meet the great ability of the bar opposed to them. This I say without any disparagement of the many promising young gentlemen who now fill the offices of district and county attorneys. Lawyers of eminence generally will not fill these offices under existing circumstances. In trials for the most heinous crimes, a scene is often witnessed in the court house discreditable to the State and ruinous to the public interest, which is, where a criminal is being defended by a number of the ablest lawyers in the country, opposed by some clever young man of respectable ability, with the additional disadvantage of powerful influences being exerted outside of the court house for the acquittal of the criminal, which he has no power to counteract.

To remedy this defect, I recommended that the Legislature would take steps to amend the Constitution so as to have the office of district attorney to be filled by the appointment of the Governor, and to provide for it in every judicial district, with a salary the same as that of the office of the district judge. Further experience and observation convinces me that, unless that or some other adequate remedy is resorted to, the criminal laws will never be properly executed in this State.

The second great defect is in the failure of peace officers to report offenses, so as to have prosecutions instituted, which is made their especial duty by the law, where they have knowledge or credible information that offenses have been committed.

It is hardly necessary here to specify the numerous offenses that receive popular toleration, though well known to be continually committed, which are occasionally prosecuted in a way, to impose upon the perpetrators a sort of tax for the benefit of the officers, without in the least degree preventing a repetition of the offenses.

It is, however, due to those officers to state, that in the more serious offenses, such as murder, robbery, and theft, they have exerted vigilance and prompt activity in making arrests, and do not now usually wait for rewards to be offered, before bestirring themselves in the discharge of their duties.

REWARDS.

I respectfully refer you to my message, giving an account of the money paid out on my order for rewards for the arrest of criminals, fees of attorneys, etc.

My course has been to issue rewards freely and promptly for the arrest and return of criminals who have fled to other States, regulating the amount given according to the magnitude of the offense, the distance and expense of travel, and a reasonable compensation for the service and risk. The payment of the rewards have been conditioned upon the requisition being strictly complied with, by getting a warrant of arrest from the Governor of the State to whom it is directed, so as to prevent the practice of kidnapping criminals in other States.

When sureties on bail-bonds have applied for requisitions to arrest their principals, a small reward has been given to encourage them in their efforts. Open rewards, when the criminal is within the State, or when his residence is unknown, have been seldom granted, with an occasional exception, in cases of secret crimes, when the perpetrators are unknown.

By pursuing the policy here indicated, the peace officers of the State are thrown upon their official responsibility in the regular discharge of their duties, the expenditure of money under my control has been kept within reasonable bounds, and a large number of criminals have been arrested, most of whom have been brought back from other States, at a reasonable cost.

REMISSION OF FINES AND FORFEITURES.

The power granted to the chief executive on this subject, like the pardoning power, is not capable of being controlled by any definite previously specified rules of action. Being an extraordinary power, it was evidently intended to prevent accidental injustice, or undue hardships of a serious character, and not as one of the ordinary processes in the execution of the criminal law, as it has been almost continually attempted to be made, frequently on very frivolous pretences of merit, supported by petitions numerously signed.

Where fines have been exorbitant, payment of part, when practicable, or some other punishment, has been usually required as a condition upon which the balance was remitted.

When the remission of a forfeiture of a bail bond has been sought, and it has been satisfactorily shown that the sureties have expended money in good faith, and in a practical way, for the arrest of their principals, the amount thus expended has been remitted in their favor. This has been a standing rule, to encourage such efforts.

Generally, however, the remissions, for whatever cause made, have been in a way to not deprive the officers of their full commissions, unless the judgment was clearly shown to be unjustly or illegally, or inadvertently rendered.

PARDONS AND COMMUTATIONS.

Notwithstanding that public notice was given in my first utterances as Governor that I did not intend to be made a high court of appeals in criminal cases, there have been presented to me in four years eleven hundred and fifty original applications for pardons, commutations and remissions in criminal cases, amounting to nearly six per week upon an average, which I have carefully examined and decided, as is shown by the books and papers in the Executive office. This does not include the hundreds of second applications made in these cases, and in cases that had been presented to my predecessors. A few of them presented grounds for action worthy of consideration. Most of them presented some frivolous excuse, or the blame of some other person or persons, or that the punishment already, however short, was thought sufficient, or family respectability, or poverty of family, or youthfulness, or old age, or permanent or accidental drunkenness, or general sympathy, or a numerously signed petition, or alleged innocence, as shown by affidavits taken *ex parte*, or unjust or illegal convictions.

The getting up and presenting or forwarding to me such applications has become a part of some lawyers' practice for compensation, and others of them, and other most respectable gentlemen, engage in it occasionally from sympathy, or friendship for relatives of the unfortunate persons.

These indiscriminate applications to the Chief Executive, to prevent or modify the execution of the law, sanctioned by the respectability and great numbers of persons who enlist their efforts, or carelessly give their names as signers to petitions, in favor of convicted criminals being relieved from punishment, has a bad effect upon the criminals themselves, and a most demoralizing effect upon communities where the efforts are made by its tendency to alleviate and detract from the enormity of crime, and to prevent its public condemnation, as fixed by law and properly adjudged by the courts.

Though the Governor is not responsible, except to his conscience and sense of right, for the manner in which he has exercised this extraordinary power entrusted to him, it is deemed proper that he should disclose to his constituents, whom you also represent, the principles which have controlled his action.

The leading one has been to place good conduct and reformation in the penitentiary at a premium, and to do it in such a way that all will be encouraged to work and act for it, and thereby have their times of service diminished. They have been thus taught to rely upon self-effort, rather than upon outside influences, to obtain relief. This, I have been assured, has had a powerful effect in aid of the government of the convicts. By extra good conduct, some convicts have been pardoned, and the time of service of others has been shortened by commutation, every year of my service. Boys under sixteen, convicted of theft, or of similar offenses, have been pardoned after six, eight, or twelve months' servitude, on account of their tender age. A list of their names has been sent for and furnished to me for that purpose once each year.

Convicts that have become permanently diseased, or badly crippled in the service, have been pardoned. In cases of murder, it has usually been required that a statement of the facts in the evidence should be furnished for examination, before acting on the applications.

A few have been pardoned because I have been satisfied of their innocence.

A few have had the death penalty commuted to labor in the penitentiary for life, because, after a full consideration of the evidence, I did not believe they ought to suffer death, and in all such cases my reasons at length have been assigned. Thus a continual effort has been made to aid in the proper execution of the criminal law,

guided by some principle of justice and of right, and not by mere extraneous influences.

PENITENTIARIES.

The report of the Penitentiary Board will show what efforts have been made to complete the two penitentiaries, and to have placed within their walls as many convicts as practicable.

EXTRADITION AGENTS.

On account of the facility of criminals in crossing the Rio Grande from either side, to avoid arrests and prosecutions, it became necessary to appoint all of the county judges and district judges whose jurisdictions reached that river, extradition agents in behalf of Texas, accompanying their appointments with a circular letter requesting their acceptance and action, and a copy of the extradition treaty between the United States and Mexico of 1861. Upon communicating these facts to the Governors of the adjoining States in Mexico favorable answers were received, giving assurances of similar action on their part.

Since that has been done very little trouble has been experienced in that matter.

FRONTIER BATTALION AND POLICE FORCE.

The report of the Adjutant General will show that the Frontier Battalion and Special Police Force have done good service in arresting criminals and in preserving peace and good order in the western and southwestern portions of the State. Since the Indian depredations have ceased that has been their exclusive business, and, that they might feel and fully understand their full responsibility as peace officers, copies of the digest of the laws have been furnished to the companies. As the railroads advanced through those unsettled or sparsely settled portions of the State, and as the settlements have advanced rapidly out upon the receding frontier, it has been practicable to diminish greatly the annual expenditures for the support of these forces. The same causes still continuing and increasing, will enable a further diminution to be gradually made in the expenditures. The existence of such a force has been an absolute necessity, and it must in some degree continue to be so as long as there are large sections of the State sparsely settled, in which bad men combine to commit depredations, and evade, or defy, or control the constituted authorities of the country.

All of these subjects have been adverted to, because they directly or indirectly relate to what has been done in the effort to enforce the laws of the State.

PUBLIC LANDS.

During the early part of my first term of office as Governor, there was an effort to provide the means to prevent the increase of the public debt. As it had been increasing from year to year, notwithstanding no sinking fund had been paid, and the ad valorem taxes were fifty cents to the one hundred dollars worth of property, it was thought expedient to use a part of the unappropriated public lands for that purpose, which resulted in the passage of a law, at the special session of 1879, approved fourteenth of July, of that year, setting apart the lands in the "Pacific reservation," and in many counties indicated by name, then unorganized, and the pieces of land less than 640 acres in the organized counties, amounting, as estimated, about eight millions of acres, and directing it to be sold at fifty cents per acre, after the lands for the new State Capitol had been selected and surveyed, and applying the proceeds of such sale, one-half to the public free schools, and one-half to the payment of the public debt.

There was generally but little known of these lands in the unorganized counties, and but little demand for them, until some time after the survey of the capitol lands. The price set upon them by the law was much above the value set upon the lands of individuals that had been previously located in said unorganized counties.

When the Board, composed of the Governor, Attorney-General, and Secretary of State, in 1880, valued the capitol lands at the minimum price of fifty cents per acre, they had evidence of respectable persons engaged in the land business in that section, that lands could be bought there from individuals at a much less price. The Capitol Board, upon the second effort to sell 50,000 acres of the most valuable lands in the capitol reservation, got for them but little over fifty cents per acre.

The public notoriety given to these lands by the contract made for the building of the new capitol, and their cheapness, compared to the price of similar lands in other States, began to attract the attention of capitalists, speculators, and stockmen for some time before the call for the meeting of the Legislature, issued on the first of March, 1882, in which legislation in regard to these reserved lands was specified, and by which call the Legislature did meet on the sixth of April, following.

It was then recommended that the minimum price of these reserved lands should be raised to one dollar, and that two millions of acres of them should be set apart to the University, not so much as a gratuitous donation as in compensation, and as a substitute for

lands taken away from the University by the Constitution of 1876, which was then fully explained. Bills to protect these lands and to set apart a portion of them passed the Senate, but failed to be passed in the House of Representatives. It may be asked why it was proper that these lands should have been valued and offered at fifty cents per acre, and in three short years, an effort was made to raise the price to one dollar per acre. These lands may be worth from five to fifty dollars per acre, when the time arrives, at which they can be put fully into practical use as agricultural and pastoral lands. Most of them then were not and practically could not be used for any purpose, and the value of fifty cents was then properly placed upon them, upon an estimate, based upon the experience of the past, and upon the prospects under the then existing circumstances, as to the length of time that might elapse before the lands could be thus utilized, and bring their full intrinsic value.

If the purchaser had bought them then, he would have paid the full value (more than they brought at private sale), and he would have taken the risk of carrying them with the necessary expense. In three years the whole prospect, as to the length of time for their utilization, had changed by the extensive information of their quality and uses, that had, during that time, been acquired, and unprecedented demand for such lands, which could hardly have been anticipated. Hence, upon this mode of calculating the value of wild lands, which must always be resorted to in order to fix any value upon them at all, these lands were better worth one dollar per acre, as a purely business transaction, in April, 1882, than fifty cents per acre in July, 1879, when they were first offered for sale. It was therefore proper that the State should then have raised the price to at least that amount.

Had the recommendation been heeded, and favorably acted on, Texas would have now either many millions of acres of land that have been sold, or the purchase of them secured under the law, or double the amount of money for which they have been and will be sold.

For, as I learn from the Commissioner of the General Land Office, there was filed in his office up to March 1, 1882, applications for 278,333 acres of these lands, but payment had been made upon 193,446 acres of them, and over 100,000 acres of them were "scraps," that is, small tracts of less than 640 acres in organized counties, and only about 80,000 acres, in the unorganized counties, where the great bodies of these lands are situated.

Since the adjournment of the special session, on the fifth of May, 1882, there have been, up to the first of January, 1883, filed in his office applications, for 3,150,480 acres, and he has unofficial, though reasonably accurate information, of applications to be shortly made, in the time allowed by law, for about 3,200,000 acres, making the application filed and to be filed since the close of the special session for 6,350,420, of these lands sold, and to be sold at fifty cents per acre by the State.

It would be useless now to recount the conflicting views in the Legislature, and the objects, of interest and of speculation outside of it, which may have tended to prevent the enactment, of the measures recommended. Their failure has permitted this sacrifice of the property of the State, by its sale at a price far below its value, as is evidenced by the brokerage speculations made in the sales of it to capitalists.

THE UNIVERSITY OF TEXAS.

All of the branches of the State University have now been located, the main branch at Austin, the medical department at Galveston, the Agricultural and Mechanical College at Bryan, and, at the late general election, the branch university for colored youths at Austin. The Agricultural and Mechanical College is the only branch, now in operation. It needs additional aid to complete its arrangements for teaching the science and practice of agriculture and the mechanical arts. The Board of Regents contemplate putting the main branch at Austin in operation during the fall of the present year, when the west wing of the magnificent building on College Hill shall have been completed. They will lack the means necessary to do it properly, which, however, can be readily and justly provided by the action of this Legislature. The medical branch and the branch for colored youths have had no provision for *um* whatever. Now that these four branches of are awaiting ample provision to make them constitute "a University of the first class," as required of the Legislature, "as soon as practicable," by the Constitution of the State, the propriety and necessity of the urgent efforts previously made by the friends of education to have such ample provision made, and all of the branches placed under one Board of Regents for their management, are now obvious. This subject was brought to the attention of the last Legislature, convened in special session in April of last year, with a full explanation of the inadequacy of the means previously provided, and of the practicability then of making such ample provision without any material detriment to any other interests of the State. A bill for that purpose passed the Senate, but failed to be passed in the House of Representatives.

It was recommended that the bonds reported formerly as of doubtful validity, amounting to one hundred and thirty-four thousand dollars, issued in 1867, be recognized as valid, and the interest accrued thereon up to the eighteenth of April, 1876, when the present Constitution went into effect, amounting to over six'y thousand dollars, be invested in similar five per cent bonds, and the interest accrued since that time, amounting to about eighteen thousand dollars, be appropriated in money, to become a part of the available fund for present use; that the one million of acres that had been set apart and surveyed be sold or leased, the interest upon the sale of which, if sold on time, could be made available annually by an amendment of the Constitution; that two millions of acres of lands be set apart out of the lands reserved to pay the public debt, in such a manner as would not interfere with the interest in them of the public free schools. Nearly all of those lands set apart to pay the public debt have either been sold or surveyed for purchasers, by which a right to purchase them has been legally secured, and the money, amounting to several millions of dollars, has been paid and will very soon be paid into the State Treasury for said lands, one-half of which will be the fund, which may be appropriated to pay the public debt. That fund unlike that of the public free schools, is still under the control of the Legislature as to its disposition, and one million of dollars, the proceeds of two millions of acres of said lands, may still be set apart to the University, if the Legislature should choose to do it.

Under the Constitution (Art. 7, Sec. 4), the Legislature cannot appropriate revenue to erect buildings for the University, nor for the establishment and maintenance of the branch university for colored youths; therefore any enlargement of that part of the main University now being built, and the erection of buildings for the medical branch, and the establishment and maintenance of the branch for colored youths, must be indefinitely postponed; and the main University itself will not have the means to purchase a library, apparatus and necessary furniture to start with ordinary respectability, if the opportunity, still available, is allowed to pass without appropriating a portion of this fund to the University, including its several branches. A reason why a liberal appropriation should be made at once, if anything further is intended to be done for the University, is that any amount of money, however small, unless it be interest of its fund, has to be placed at once in the permanent fund, and cannot be used otherwise than to draw interest after investment. (Con., Art. 17, Sec. 11).

The requirement of the Constitution and the unmistakable manifestation of an enlightened public sentiment in favor of a liberal endowment of the University will doubtless be sufficiently appreciated and respected by the honored representatives of the people, as to render any argument unnecessary to stimulate them to action in a measure so important to the well-being of the State and its people at present, as well as in all future time.

PUBLIC FREE SCHOOLS.

The leading features of our public free school system are such as are given to it by the Constitution of the State, and such as are given to it by the laws passed since the adoption of the present Constitution.

First, by the Constitution it is made "the duty of the Legislature to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." (Article 7, sec. 1.)

It may be supported by the levy of taxes, the same as any other object of government, and is thereby made a part of the ordinary operations of its administrations, the same as the courts, the collection of taxes, quarantine, the penitentiaries, the University, or any other. (Article 3, sec. 48.)

It is given a permanent fund in lands, land sale notes and bonds, which, with the interest thereon, is protected from being appropriated to any other object. (Article 7.)

A part of the revenue shall be set apart to it annually, not exceeding one-fourth thereof, and a poll tax of one dollar, together with the interest of its permanent fund. (Ib.)

This, constituting the available fund, shall be distributed to the counties annually, according to the scholastic population of each, to be applied as may be provided by law. (Ib.)

No part of it can be appropriated or used for the support of any sectarian school. (Ib.)

Each county shall have the benefit in its schools of the interest upon the bonds, purchased by the sale of its four leagues of land. (Ib.)

Separate schools are required to be provided for white and colored children, and an impartial provision shall be made for both. (Ib.)

"The Governor, Comptroller, and Secretary of State shall constitute a Board of Education, who shall distribute said funds to the several counties, and perform such other duties concerning public schools as may be prescribed by law." (Ib.)

The Legislature may constitute any city or town a separate and

independent school district, which under certain regulations, may levy and collect an additional tax for its schools. (Article 10, sec. 10.)

These provisions have been thus collated that it may be seen that they constitute within themselves a complete and consistent system, not as a separate, distinct department, but to be one of the ordinary operations of the government, both in its government and in the provision to be made for its support, except only that it has the advantage of a separate fund to aid in its support.

It leaves to the Legislature the authority and duty of prescribing by law what part of the whole amount of the annual revenue, not exceeding one-fourth, shall be appropriated, how the money, annually distributed to the counties, shall be applied, in carrying on their schools, and what other duties, concerning public schools, besides that of making the distribution of the annual available school fund, shall be performed by the Board of Education, created by the Constitution. Secondly, the law of 1876, passed by the Legislature to carry out these provisions, and the amendments since made to it, were shaped in harmony with them, by making the county judge the general director of the machinery for establishing the schools within his county, by making school communities to depend upon the mutual association of citizens having scholars within the prescribed scholastic age, from eight to fourteen, inclusive, and not by territorial divisions into school districts, by placing schools under the control of trustees, chosen from the patrons, who select and make contracts with the teachers, and otherwise attend to the carrying on of the schools, by requiring teachers to be examined, and to be paid according to the grades of certificates of qualification as teachers, into three classes, first, second and third; by making tuition free to the pupils within the scholastic age, in the ordinary branches of a common education, as in "orthography, reading, writing, English grammar, composition, geography and arithmetic;" by permitting scholars, not of the scholastic age, to attend the schools upon payment of tuition, and by regulating the manner in which towns and cities can institute their own schools, and have them taught for a longer time than they could be taught by the money furnished to them by the State in its annual distribution.

Thus our school system has been identified and connected with the civil government throughout, and made part of it, with its immediate control localized where its benefits are to be realized.

That this system, ever since its adoption, has worked well and has continued to improve from year to year, is demonstrated, not only by the reports of the Board of Education, but by the gradual withdrawal of public opposition to free public schools, by the increased and continually increasing interest taken in them in all parts of the State, and by the confidence that has been generally inspired, that a good and efficient system of public free schools can be built upon the foundations already laid, without an unreasonable burden of taxation, if the leading features of the system are preserved and improved upon as the financial ability of the State and the increase of its own school fund may justify it.

I should not have deemed it necessary to have thus presented this subject at the close of my administration, but from the fact that for years past there have been, and now are, in this State, persons who have been, and are, actively engaged in the effort to overturn this system, or to fundamentally reform it so as to conform in effect to the system established in Texas under the Constitution of 1869.

The leading features of the system attempted to be imposed upon the State are the creation of a separate department of the government, the appointment of a State Superintendent, District Supervisors and County Superintendents, with power to control the whole machinery of the schools and matters relating to them, and with competent salaries for their support; also, a special tax levied to support the schools, and their vast independent machinery of officers, for nine or ten months in the year, with an increase in the period of the scholastic age, and a consequent enlargement of degrees of education to be paid for by the State.

Such a separate scholastic establishment would annually cost more money than the whole amount of taxes collected off of the people of Texas for all the expenses of the government. It would lead to a central control that would supercede the local control of the schools. There are now seven thousand teachers of those schools, with a regular increase every year. This numerous body of teachers would be embodied in a common purpose of self-aggrandizement by this central controlling power, and would exert an influence all over the State for more and greater advantages for the whole class of persons engaged in this business. The taxpayer would grudgingly pay his special school tax, as it would increase from time to time, and it would become odious, as most special taxes for the benefit of a class of persons are. Other interests in the administration of the government, that would be less favored, would combine and make war on it as a political machine working for class legislation. It would finally be abandoned, if not (as a similar system formerly existing) in disgust, at least, as impracticable.

The moving cause of this effort is not that four, five, and six months, as now taught in the common schools each year, for six years, is not sufficient to teach children reasonably well in the branches of common education heretofore named, but because it does not give constant employment and adequate compensation to competent teachers, and the standard of common education is not sufficiently high. These objects are certainly very desirable, when their attainment shall become practicable.

But the question is how, and by what means, shall their attainment become practicable. Surely, the State is not bound to provide for a higher standard of education for the masses of its people, than that which will fit them for intelligent citizenship in a republican government. The standard fixed in law is certainly high enough to enable the masses of people generally, who receive the benefit of it, to have that general diffusion of knowledge, which is "essential to the preservation of the liberties and rights of the people." That is the object, indicated by the constitution, and of necessity fixes impliedly a limitation upon the power and duty of taxation for that object. Any thing in excess of that is beyond any established theory or principle of the obligation of the State to promote the general education of the masses of its people. Something else, than an increased and special taxation, must be resorted to. Our many millions of acres of school lands may be utilized by sale or lease, so as to largely increase the available school fund to be annually distributed, as it has been doing for a few years past; still it will be found when that fund is fully matured, the rapid increase of our population will, before many decades, have caught up with it, so that its proportion to the scholastic population will then be no greater than it is now, after which time it will gradually get less.

The only practicable permanent remedy for the attainment of the desirable objects that have been named will be found in the encouragement of more towns and cities to assume the control of their own schools; in the formation of permanent school districts in the counties, wherein the residents can tax themselves when the population becomes sufficiently dense (which will require a change in the Constitution); and until that can be done, in arousing public sentiment in favor of higher education, that will induce free public schools to be attended by a greater number of scholars not within the scholastic age, the compensation for whose tuition by those who receive the benefit of it will gradually lengthen the terms of the schools and increase the compensation of the teachers.

The State having filled the measure of its duty, reliance must be placed on local taxation and compensation from the individuals benefited to furnish the means for longer terms, better pay, and a higher standard of education in the public free schools of the State. And this must be the case under the present system, or under any other that may supplant it, without imposing such burdens of taxation upon the people as they will not bear any length of time. Amendments may, and doubtless will, be made upon the present school law to perfect it more and more, from time to time, as its defects are made known in its practical operation.

One of the greatest obstacles in the way of reaching proper conclusions by educators, and many other friends of education, is their constant failure to keep strictly in view the specific objects of the State in instituting public schools, as indicated by the Constitution and laws of the State.

They habitually devise plans for general education, irrespective of the school in which it is to be taught; whereas the object of the State in regard to each school is specific. For instance, the public free schools are instituted and regulated by the Constitution and law to teach the mass of people such branches only as are necessary for intelligent citizenship in a republican government. Normal schools are instituted to train and perfect the education of pupils sufficiently to enable them to be competent teachers in the public free schools. Summer normal institutes are designed to train and improve teachers who are already engaged in the business of teaching.

The Institutes for the Deaf and Dumb, and for the Blind, are designed to teach pupils such things as will best enable them to supply the want of the lacking faculties, as far as practicable.

The Agricultural and Mechanical College is designed to teach learning in agriculture and the mechanic arts, and the natural sciences connected therewith.

The University is designed to teach the higher grades of learning and science, and to qualify persons for the learned professions.

A proper appreciation of these specific objects will serve as a guide in the estimate of what should be taught, and of the extent of the means to be used in their support, respectively.

I respectfully refer you to the reports of the Board of Education, of the Board of Regents of the University, and other reports of those institutions, with a request for a due consideration of the facts presented and recommendations therein contained.

STATE EXECUTIVE OFFICERS AND EMPLOYEES OF THE GOVERNMENT.

In the close of my administration, I take pleasure in bearing witness to the general faithfulness and ability of the executive officers

and other employees of the government, in the discharge of their duties; and to the agreeable and courteous association in all of the official relations in which I have participated.

O. M. ROBERTS,
Governor.

Senator Matlock offered the following resolution:

Resolved by the Legislature of the State of Texas, That five thousand copies of the Governor's message be printed.

Senator Pfeuffer moved to amend by providing that one thousand copies be printed in German. Accepted.

Senator Gibbs moved to refer to Committee on Public Printing.

Senator Johnston of Shelby, moved to amend by substituting "Senate" for "Legislature," in the resolution. Accepted by Senator Matlock, and the motion of Senator Gibbs to refer to Committee on Public Printing adopted, and resolution so referred.

Senator Shannon introduced a bill entitled "An act to amend section 1133, Revised Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Jones' resolution of yesterday, permitting Senators to subscribe for fifty copies each of daily papers containing proceedings of the Legislature, to be paid for out of the contingent fund, was taken up with report and substitute of committee.

Senator Kleberg offered the following amendment: Amend by striking out "fifty copies," and inserting "one copy."

Senator Johnson, of Collin, in addressing the Senate upon the resolution, was called to order by Senator Pfeuffer, on the ground that he was not addressing himself to the question under discussion. Point of order overruled.

Senator Jones moved to lay amendment on the table. Carried by the following vote, and amendment lost:

YEAS—18.

Chesley,	Houston,	Peacock,
Davis,	Johnston of Shelby,	Perry,
Evans,	Jones,	Pfeuffer,
Farrar,	King,	Pope,
Fowler,	Martin,	Stratton,
Gibbs,	Matlock,	Terrell.

NAYS—12.

Buchanan,	Gooch,	Patton,
Collins,	Harris,	Randolph,
Fleming,	Johnson of Collin,	Shannon,
Getzendaner,	Kleberg,	Traylor.

Senator Collins offered the following amendment. Insert "twenty-five" in place of "fifty" copies. Lost, and committee substitute adopted by the following vote:

YEAS—25.

Buchanan,	Harris,	Perry,
Chesley,	Houston,	Pfeuffer,
Davis,	Johnston of Shelby,	Pope,
Evans,	Jones,	Randolph,
Farrar,	King,	Shannon,
Fleming,	Martin,	Stratton,
Fowler,	Matlock,	Terrell,
Gibbs,	Peacock,	Traylor.
Gooch,		

NAYS—5.

Collins,	Johnson of Collin,	Patton,
Getzendaner,	Kleberg,	

Resolution, as substituted, adopted.

Senator Chesley offered the following resolution:

Resolved, That 100 copies of the acts of the extra session of the Sixteenth Legislature be provided for the use of the Senate; and that the Committee on Public Printing have them printed and placed upon the desks of the Senators as early as possible.

Referred to Committee on Public Printing, on motion of Senator Gooch.

On motion of Senator Gooch, Senator Cooper was excused on account of sickness for Wednesday, Thursday, Friday and Saturday of this week.

Senator Peacock moved to adjourn until to-morrow morning at 10 o'clock.

Senator King moved to amend by substituting "Monday" for "to-morrow." Amendment lost.

Motion of Senator Peacock to adjourn until to-morrow morning at 10 o'clock adopted, and Senate adjourned.

FOURTH DAY.

SENATE CHAMBER,)
AUSTIN, January 12, 1883. }

The Senate met pursuant to adjournment. Lieutenant-Governor Storey in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Matlock, the reading of the journal of yesterday was dispensed with.

Senator Davis offered the following resolution:

Resolved, That a committee of three be appointed to confer with a like committee from the House to arrange the time, place and manner of opening, counting and publishing the returns mentioned in section 3, article 4 of the Constitution.

Adopted.

Senator Chessley offered the following joint resolution:

Resolved, That the Committee on State Asylums be requested to ascertain at as early a day as practicable what further legislation is necessary to make the Lunatic Asylum adequate to the wants of the State, and to report by bill or otherwise.

Adopted.

The President appointed Senators Davis, Houston and Gibbs a committee to act with a like committee from the House for the purposes stated in resolution.

Senator Chesley introduced a joint resolution amending section 3, article 7, and section 10, article 11 of the Constitution of Texas. Referred to Committee on Constitutional Amendments.

Senator Traylor introduced the following bills: "An act creating, establishing and directing the laying out certain roads as first-class roads, and fixing a penalty for obstructing the same." Referred to Committee on Roads and Bridges.

"An act entitled an act to provide for the payment of fees to county judges, justices of the peace, sheriffs, constables, district and county attorneys, for services rendered in examining courts in felony cases." Referred to Judiciary Committee No. 2.

Senator Jones introduced the following bill: "An act to amend article 1223 of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 2.

Senator Kleberg introduced the following bills:

"A bill to amend article 2266, chapter 4, title 38, Revised Statutes." Referred to Judiciary Committee No. 1.

"A bill to amend article 1000, chapter 1, title 13, Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

"A bill to amend article 240, title 8, chapter 6, Penal Code." Referred to Judiciary Committee No. 2.

"A bill amending article 800, chapter 3, title 9, of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

Senator Getzendaner offered the following joint resolution: "Joint resolution to submit amendment to section 9, article 8, of the Constitution." Referred to Committee on Constitutional Amendments.

Senator Johnson of Collin introduced a bill to be entitled "An act to amend the Penal Code, and relating to trespass

upon enclosed lands." Referred to Judiciary Committee No. 2.

Senator Evans introduced a bill to be entitled "An act to amend article 2863, chapter 4, title 50, of the Revised Civil Statutes." Referred to Judiciary Committee No. 1.

Senator Perry introduced a bill to be entitled "An act to amend article 2231, chapter 2, title 38, of the Revised Statutes of the State of Texas, providing for taking the depositions of witnesses." Referred to Judiciary Committee No. 2.

Senator Matlock introduced a bill to be entitled "An act to amend 4758, 4759, 4759a and to create article 4759d, chapter 5, title 95, of the Revised Civil Statutes." Referred to Judiciary Committee No. 1.

Senator Patton, by request, introduced a bill to be entitled "An act to provide annual pensions for the surviving soldiers and sailors of the Texas revolution and the surviving signers of the declaration of Texas independence, and the surviving widows of such soldiers, sailors and signers." Referred to Committee on State Affairs.

Senator Terrell offered the following resolution:

Resolved, That the Committee on State Affairs be requested to examine, and report by bill or otherwise, what action is needed by this State to secure a recognition by the United States of the right of Texas to land embraced in Greer county.

Referred to Committee on Federal Relations.

Senator Getzendaner introduced the following resolution:

Resolved by the Senate, Whereas, the proper care of the number of insane persons as reported in the State makes an extensive addition to the present Lunatic Asylum necessary; and, whereas, it is not deemed for the best interest for that unfortunate class that such large numbers should be kept together; therefore, be it

Resolved, That the Committee on State Asylums inquire into the expediency of establishing a branch lunatic asylum at some other point in the State, and report by bill or otherwise.

Referred to Committee on State Asylums.

Senator Fowler introduced a bill entitled "An act to amend articles 314 and 315 of the Penal Code." Referred to Judiciary Committee No. 2.

Also, a bill entitled "An act to amend article 180 of the Penal Code." Referred to Judiciary Committee No. 2.

Senator Gibbs introduced the following bills:

A bill to be entitled "An act to give to each unorganized county in this State a county surveyor." Referred to Committee on Public Lands.

A bill to be entitled "An act to provide for running and marking the boundary lines of all unorganized counties now existing in the State of Texas." Referred to Committee on Counties and County Boundaries.

A bill to be entitled "An act to provide for leasing the unorganized county school leagues." Referred to Committee on Public Lands.

Senator Buchanan introduced the following bills:

"An act to authorize and require the county commissioners' courts of the several counties in this State to provide for the payment of all claims due teachers of public free schools, audited as valid claims under acts of the Legislature of Texas, approved August 7, 1876, or April 22, 1879." Referred to Committee on Educational Affairs.

A bill entitled "An act to amend article 1544 of the Revised Statutes, relative to the jurisdiction of justices' courts." Referred to Judiciary Committee No. 1.

A bill entitled "An act to amend article 1164 of the Revised Civil Statutes of Texas, relative to the jurisdiction of county courts." Referred to Judiciary Committee No. 1.

Senator Pope introduced a bill entitled "An act to amend article 2863 of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 2.

Also, a bill entitled "An act to amend articles 503 and